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Testimony of Massachusetts Attorney General Thomas F. Reilly Before the Rx Drug Market Access Forum

October 28, 2003, Boston, Massachusetts

Thank you Congressmen and women for inviting me to speak at this forum today. I applaud your leadership in attempting to address this crucially significant issue – how do we make sure our citizens are able to get affordable access to the prescription medicines they need, without compromising safety, and without bankrupting our businesses, cities and states? I believe there are ways, but it will take leadership and resolve, and a fundamental re-examination of the way we currently approve, market and distribute prescription drugs in this country.

The current situation is untenable. Prescription drug prices in America are the highest in the world, and they continue to spiral upward. I meet people every day who tell me that they must choose between the prescription drugs they need and other necessities of life. We have all heard today, and will continue to hear from governors and mayors, that they are finding it increasingly difficult to fund prescription programs for state and municipal workers and the needy. And this problem also has a dramatic impact on the private sector – employers tell me that they are spending much more on prescription drug benefits while reluctantly requiring their employees to also shoulder a greater portion of these costs. This is money that businesses would otherwise use for investment and creating jobs, and that workers would use for other spending, investment, or savings. Frankly, I find it incredible, and unconscionable, that while citizens in

other countries can get the medications they need, at least one-third of our elders right here in the United States have no insurance coverage for prescription drugs at all – not Medicare, not Medicaid, not private insurance. They have to pay for their medication out of their own pockets. And too many of them simply can't afford to.

On this issue, the public is ahead of the policy makers – and our leaders and the law have to catch up. Thousands of Americans are, out of necessity, buying their medications from Canada. That is a fact – it is not going to stop, and it will only increase unless and until we find a way to reign in the costs of drugs right here in America. The FDA tells these Americans that it's unsafe to purchase their medications from Canada. But we all know that many of these drugs are manufactured right here in America, by FDA approved drug manufacturers, drugs that are approved by Canadian authorities, distributed by licensed Canadian pharmacies, and used by Canadian citizens. The FDA's repeated message – "just say no" to medications from Canada – is simply not good enough. I've met with academics and experts in the area, and I believe that safety is a legitimate and critical issue. But I also know from these experts that the FDA can do more for Americans by using its expertise and authority to address these safety concerns, and to identify and facilitate the importation of safe drugs from Canada and other countries. To this end, I support bi-partisan legislation that expands prescription drug benefits to many more millions of Americans, and that requires the FDA to take the measures necessary to permit Americans to safely import their drugs from Canada.

As a state attorney general, I see the problem of prescription drug pricing from a number of perspectives. With respect to the Canadian drug issue, we are told that thousands of otherwise law-abiding citizens, mayors and others are violating federal law, and putting their health, and the health of their employees and citizens at risk. On the other hand, I know that for so many Americans the only means for them to get the medications they need is through other options,

like purchasing their medications at significantly lower prices from licensed Canadian providers. As Attorney General, I have a duty to enforce the laws, but I also have a duty to protect the health and welfare of our citizens. When a legal framework fails to properly balance the need to protect the safety of our citizens against the need to provide these same citizens with reasonable options for affordable access to the prescription medications they need, then the legal framework needs to be changed. I applaud you Congressmen and women for taking the initiative to make those changes to strike the proper balance.

Critics have contended that re-importing drugs from Canada and elsewhere is not a long-term solution to the problem of out-of-control drug prices in this country. And I agree with them. As I mentioned at the outset, I believe that in order to ensure that all Americans get affordable access to the medications they need we must do even more – we must conduct a comprehensive re-examination of, and make fundamental changes to, our system of approving, marketing and distributing prescription medications. Again, based on my discussions with experts and academics, I believe there are a number of areas where the Administration and Congress can make a significant impact in improving the system, even within our current framework. These include legislative and regulatory measures to speed up the introduction of cheaper generic medicines; a re-examination of the millions drug companies spend on direct-to-consumer advertising; a system where manufacturers demonstrate the cost-effectiveness of new and expensive drugs; honesty and transparency in drug pricing; and efforts to level the international playing field so that the rest of the world pays its fair share of research and development costs.

The current drug pricing system in this country is unfair to those who make the payments, whether employers, health plans, taxpayer-funded government programs or individual

consumers. Prescription drugs are unlike almost all other commodities – for many of us they are a necessity of life. Every American should be entitled to access to the medications they need, and at prices we can all afford. Thank you.

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